

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1003

FINAL READING

Introduced by Schrock, 38; Bromm, 23; Brown, 6; Bruning, 3;
Preister, 5

Read first time January 10, 2002

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the environment; to amend sections 2-1576,
2 37-101, 37-102, 37-453, 37-491, 37-4,105, 37-4,106,
3 37-528, 37-608, and 37-806, Reissue Revised Statutes of
4 Nebraska, sections 2-1575, 2-1579, 37-201, 37-202,
5 37-406, 37-440, 37-525, 37-724, 54-2302, 54-2305,
6 54-2322, 72-2005, 72-2006, 72-2008, 72-2010, 72-2011,
7 81-15,167, 81-15,170, 81-15,175, and 81-15,176, Revised
8 Statutes Supplement, 2000, and sections 37-407, 37-426,
9 37-455, 49-1401, 49-1493, and 66-1519, Revised Statutes
10 Supplement, 2001; to create the Water Policy Task Force;
11 to state findings; to provide powers and duties; to
12 create a fund; to provide for payments from the Nebraska
13 Soil and Water Conservation Fund; to provide for fund
14 transfers; to change provisions relating to membership on
15 the Game and Parks Commission, licenses, permits, and

1 stamps required under the Game Law, authorized weapons
2 for hunting certain wildlife, training and running dogs,
3 paddlefish, property posting requirements, procedures for
4 determination of a species to be endangered or
5 threatened, the Nebraska Environmental Trust Board, and
6 cervine animals and diseases; to authorize and change
7 fees; to authorize the enforcement of federal orders on
8 federal lands as prescribed; to name the Niobrara Scenic
9 River Act; to define terms; to provide powers and duties;
10 to harmonize provisions; and to repeal the original
11 sections.

12 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds that there are
2 significant issues relating to the laws of Nebraska governing the
3 management and use of Nebraska surface water and ground water. The
4 issues to be examined are: (1) A review of Laws 1996, LB 108, to
5 determine what, if any, changes are needed to adequately address
6 Nebraska's conjunctive use management issues; (2) an evaluation of
7 the utility of allowing temporary water transfers and, if deemed
8 useful, development of draft legislation and procedures for
9 authorizing and implementing a temporary water transfer law; (3) an
10 evaluation of the utility of authorizing additional types of
11 permanent water transfers and, if deemed useful, development of
12 draft legislation and procedures for authorizing and implementing
13 additional types of permanent water transfers; (4) a determination
14 as to the usefulness of water leasing or transfers and development
15 of a potential water banking system that would facilitate the
16 temporary or permanent transfer of water uses; and (5) a
17 determination as to what other ways, if any, inequities between
18 surface water users and ground water users need to be addressed and
19 potential actions the state could take to address any such
20 inequities. To address such issues, the Governor shall appoint a
21 Water Policy Task Force as provided in section 2 of this act.

22 Sec. 2. (1) The members of the Water Policy Task Force
23 shall include: (a) Twenty irrigators, with at least one irrigator
24 from each of the state's thirteen river basins, giving
25 consideration to maintaining a balance between surface water users
26 and ground water users. Three irrigators shall be selected from
27 the Republican River Basin, two irrigators shall be selected from
28 the North Platte River Basin, two irrigators shall be selected from

1 the middle Platte River Basin, two irrigators shall be selected
2 from the Loup River Basin, two irrigators shall be selected from
3 the Elkhorn River Basin, two irrigators shall be selected from the
4 Big Blue River Basin, one irrigator shall be selected from the
5 South Platte River Basin, one irrigator shall be selected from the
6 lower Platte River Basin, one irrigator shall be selected from the
7 Little Blue River Basin, one irrigator shall be selected from the
8 Nemaha River Basin, one irrigator shall be selected from the
9 Niobrara River Basin, one irrigator shall be selected from the
10 White Hat River Basin, and one irrigator shall be selected from the
11 Missouri tributaries basin; (b) three representatives from
12 differing agricultural organizations; (c) three representatives
13 from differing environmental organizations; (d) two representatives
14 from differing recreational organizations; (e) three
15 representatives to represent the state at large; (f) five
16 representatives suggested for the Governor's consideration by the
17 Nebraska Association of Resources Districts; (g) four
18 representatives suggested for the Governor's consideration by the
19 Nebraska Power Association; (h) five representatives suggested for
20 the Governor's consideration by the League of Nebraska
21 Municipalities, with consideration given to maintaining a balance
22 between larger and smaller municipalities; and (i) such other
23 members as the Governor deems appropriate to provide the task force
24 with adequate and balanced representation. The Governor shall
25 notify the Legislature upon completion of the appointments.

26 (2) Additional members of the task force shall be: (a)
27 One representative from the Department of Natural Resources to
28 coordinate as appropriate with other state agencies; (b) one

1 representative from the Attorney General's office; (c) the
2 chairperson of the Natural Resources Committee of the Legislature;
3 and (d) the vice chairperson of the Natural Resources Committee of
4 the Legislature. Other members of the Legislature may participate
5 as desired.

6 Sec. 3. On behalf of the Water Policy Task Force, the
7 Natural Resources Committee of the Legislature shall contract for
8 the services of a meeting facilitator and such other assistance as
9 the task force deems necessary within the limits of the funds
10 appropriated. Such contract shall have the approval of the
11 Executive Board of the Legislative Council. In making its
12 selection for facilitator, the Natural Resources Committee shall
13 consult with the Attorney General's office and the Department of
14 Natural Resources.

15 Sec. 4. The Water Policy Task Force shall select an
16 executive committee. The executive committee shall consist of
17 three representatives from irrigation interests; one representative
18 from an agricultural organization; one representative from an
19 environmental organization; one representative from a recreational
20 organization; one representative of the state at large; one
21 representative of natural resources districts; one representative
22 of the Nebraska Power Association; one representative of
23 municipalities; one representative of the Department of Natural
24 Resources; one representative of the Attorney General's office; and
25 the chairperson and vice chairperson of the Natural Resources
26 Committee of the Legislature. Each executive committee member
27 shall be responsible for representing the rest of his or her
28 interest group on the executive committee. The executive committee

1 shall be responsible for developing the operating rules of the task
2 force and for developing proposals and recommendations to be
3 considered by the entire task force. The executive committee shall
4 apply for a grant of a minimum of three hundred fifty thousand
5 dollars from the Nebraska Environmental Trust Fund prior to the
6 application deadline of September 9, 2002, for grants to be awarded
7 and funded in 2003.

8 Sec. 5. The Water Policy Task Force shall meet at least
9 four times each year to consider the proposals and recommendations
10 of the executive committee and any other additional times as the
11 executive committee determines to be necessary to accomplish the
12 objectives established in section 1 of this act.

13 Sec. 6. The Water Policy Task Force shall discuss the
14 issues described in section 1 of this act and such related issues
15 as it deems appropriate, shall identify options for resolution of
16 such issues, and shall make recommendations to the Legislature and
17 the Governor relating to any water policy changes the task force
18 deems desirable.

19 The task force shall complete its work within eighteen
20 months after the Governor notifies the Legislature that all members
21 of the task force have been appointed and a meeting facilitator has
22 been selected.

23 Sec. 7. The Water Policy Task Force Cash Fund is
24 created. The fund shall be administered by the Department of
25 Natural Resources and expended at the direction of the Water Policy
26 Task Force. The fund shall consist of funds appropriated by the
27 Legislature, money received as gifts, grants, and donations, and
28 transfers authorized under sections 2-1579 and 66-1519. Any money

1 in the fund available for investment shall be invested by the state
2 investment officer pursuant to the Nebraska Capital Expansion Act
3 and the Nebraska State Funds Investment Act.

4 Sec. 8. Section 2-1575, Revised Statutes Supplement,
5 2000, is amended to read:

6 2-1575. Sections 2-1575 to 2-1585 and section 10 of this
7 act shall be known and may be cited as the Nebraska Soil and Water
8 Conservation Act.

9 Sec. 9. Section 2-1576, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 2-1576. The Legislature recognizes and hereby declares
12 that it is the public policy of this state to properly conserve,
13 protect, and utilize the water and related land resources of the
14 state, to better utilize surface waters and available
15 precipitation, to encourage ground water recharge to protect the
16 state's dwindling ground water supply, to protect the quality of
17 surface water and ground water resources, and to reduce soil
18 erosion and sediment damages. The Legislature further declares
19 that it is in the public interest of this state to financially
20 assist in encouraging water and related land resource conservation
21 and protection measures on privately owned ~~agricultural,~~
22 ~~horticultural, or silvicultural~~ land and that this will produce
23 long-term benefits for the general public.

24 Sec. 10. Payments may be made from the Nebraska Soil and
25 Water Conservation Fund to owners of private land which is being
26 converted to urban use for the purpose of controlling erosion and
27 sediment loss from construction and development. As a condition
28 for receiving any funds pursuant to this section, the landowner

1 shall agree in writing that the erosion and sediment control
2 practices will be installed prior to the land-disturbing activity,
3 when possible, and that the practices will be adequately maintained
4 or replaced at the landowner's expense until ninety-five percent of
5 the site is permanently stabilized. Payments made pursuant to this
6 section shall be in accordance with and conditional upon such terms
7 as are established by the commission. Such terms may be different
8 from those established by section 2-1579 for payments relating to
9 other types of projects and practices.

10 Sec. 11. Section 2-1579, Revised Statutes Supplement,
11 2000, is amended to read:

12 2-1579. (1) Except as provided in subsection (2) of this
13 section, expenditures may be made from the Nebraska Soil and Water
14 Conservation Fund as grants to individual landowners of not to
15 exceed seventy-five percent of the actual cost of eligible projects
16 and practices for soil and water conservation or water quality
17 protection, with priority given to those projects and practices
18 providing the greatest number of public benefits.

19 (2) The department shall reserve at least two percent of
20 the funds credited to the fund for grants to landowners ordered by
21 a natural resources district pursuant to the Erosion and Sediment
22 Control Act to install permanent soil and water conservation
23 practices. Such funds shall be made available for ninety percent
24 of the actual cost of the required practices and shall be granted
25 on a first-come, first-served basis until exhausted. Applications
26 not served shall receive priority in ensuing fiscal years.

27 (3) The commission shall determine which specific
28 projects and practices are eligible for the funding assistance

1 authorized by this section and shall adopt, by reference or
2 otherwise, appropriate standards and specifications for carrying
3 out such projects and practices. A natural resources district
4 assisting the department in the administration of the program may,
5 with commission approval, further limit the types of projects and
6 practices eligible for funding assistance in that district.

7 (4) As a condition for receiving any cost-share funds
8 pursuant to this section, the landowner shall be required to enter
9 into an agreement that if a conservation practice is terminated or
10 a project is removed, altered, or modified so as to lessen its
11 effectiveness, without prior approval of the department or its
12 delegated agent, for a period of ten years after the date of
13 receiving payment, the landowner shall refund to the fund any
14 public funds used for the practice or project. When deemed
15 necessary by the department or its delegated agent, the landowner
16 may as a further condition for receiving such funds be required to
17 grant a right of access for the operation and maintenance of any
18 eligible project constructed with such assistance. Acceptance of
19 money from the fund shall not in any other manner be construed as
20 affecting land ownership rights unless the landowner voluntarily
21 surrenders such rights.

22 (5) To the extent feasible, the department and the
23 commission shall administer the fund so that federal funds
24 available within the state for the same general purposes are
25 supplemented and not replaced with state funds.

26 (6) Within five days after the effective date of this
27 act, the State Treasurer shall transfer two hundred fifty thousand
28 dollars from the General Fund to the Water Policy Task Force Cash

1 Fund. It is the intent of the Legislature that the General Fund
2 appropriation to the Department of Natural Resources, Program 304,
3 for fiscal year 2002-03 be reduced by two hundred fifty thousand
4 dollars.

5 Sec. 12. Section 37-101, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 37-101. (1) The Game and Parks Commission shall consist
8 of ~~seven~~ eight members, one from each of the ~~seven~~ eight districts
9 provided for by section 37-102, and shall be appointed by the
10 Governor with the consent of a majority of all members of the
11 Legislature. Members of the commission shall be legal residents
12 and citizens of Nebraska and shall be well informed on wildlife
13 conservation and restoration. ~~At~~ Until January 1, 2006, at least
14 two members of the commission shall be actually engaged in
15 agricultural pursuits and shall reside on a farm or ranch. On and
16 after January 1, 2006, at least three members of the commission
17 shall be actually engaged in agricultural pursuits and at least two
18 of such members shall reside on a farm or ranch. Not ~~r~~ and ~~not~~
19 more than four of the members of the commission shall be affiliated
20 with the same political party.

21 (2) When the term of any member of the commission
22 expires, ~~the Governor shall appoint~~ a successor shall be appointed
23 as provided in subsection (1) of this section for a term of five
24 years from the same district as the member whose term has expired.
25 Beginning with appointments made for terms beginning after January
26 1, 2008, in districts which contain more than one county, the
27 Governor shall not appoint a person from the same county as his or
28 her predecessor. Each member shall serve until the appointment and

1 qualification of his or her successor. In case of a vacancy
2 occurring prior to the expiration of the term of a member, the
3 appointment shall be made only for the remainder of the term.

4 (3) All members of the commission shall be citizens and
5 bona fide residents of the district from which they are appointed.
6 When a member ceases to be a bona fide resident of the district,
7 from which he or she was appointed, the office shall be immediately
8 vacated.

9 (4) If the Legislature is not in session when members of
10 the commission are appointed by the Governor, they shall take
11 office and act as recess appointees until the Legislature next
12 thereafter convenes.

13 (5) Members may be removed by the Governor for
14 inefficiency, neglect of duty, or misconduct in office, but only
15 after delivering to the member a copy of the charges and affording
16 an opportunity of being publicly heard in person or by counsel in
17 his or her own defense, upon not less than ten days' notice. Such
18 hearing shall be held before the Governor.

19 (6) If such member is removed, the Governor shall file in
20 the office of the Secretary of State a complete statement of all
21 charges made against such member and his or her findings thereon,
22 together with a complete record of the proceedings. No person who
23 has served a full five-year term shall be eligible for
24 reappointment as a member of the commission until at least five
25 years have elapsed between any previous term which he or she might
26 have served and the effective date of his or her new appointment.

27 Sec. 13. Section 37-102, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 37-102. For purposes of section 37-101, the state is
2 hereby divided into ~~seven~~ eight districts. The limits and
3 designations of the ~~seven~~ eight districts shall be as follows:

4 (1) District No. 1. The counties of Richardson, Pawnee,
5 Nemaha, Johnson, Otoe, Cass, ~~Lancaster~~ Sarpy, Saunders, Butler,
6 Gage, Seward, Saline, and Jefferson;

7 (2) District No. 2. ~~The counties of Sarpy and Douglas~~
8 County;

9 (3) District No. 3. The counties of Washington, Dodge,
10 Colfax, Platte, Merrick, Nance, Boone, Madison, Stanton, Cuming,
11 Burt, Thurston, Wayne, Pierce, Antelope, Knox, Cedar, Dixon, and
12 Dakota;

13 (4) District No. 4. The counties of Thayer, Nuckolls,
14 Webster, Adams, Clay, Fillmore, York, Polk, Hamilton, Hall,
15 Buffalo, Kearney, and Franklin;

16 (5) District No. 5. The counties of Harlan, Furnas, Red
17 Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Gosper, Phelps,
18 Dawson, Lincoln, and Perkins;

19 (6) District No. 6. The counties of Howard, Greeley,
20 Wheeler, Sherman, Valley, Garfield, Holt, Boyd, Keya Paha, Rock,
21 Brown, Loup, Blaine, Custer, Logan, McPherson, Arthur, Grant,
22 Hooker, Thomas, and Cherry; ~~and~~

23 (7) District No. 7. The counties of Deuel, Garden,
24 Keith, Sheridan, Cheyenne, Morrill, Box Butte, Dawes, Sioux, Scotts
25 Bluff, Banner, and Kimball; and

26 (8) District No. 8. Lancaster County.

27 Sec. 14. Section 37-201, Revised Statutes Supplement,
28 2000, is amended to read:

1 37-201. Sections 37-201 to 37-811 and sections 16, 17,
2 28, and 30 of this act shall be known and may be cited as the Game
3 Law.

4 Sec. 15. Section 37-202, Revised Statutes Supplement,
5 2000, is amended to read:

6 37-202. For purposes of the Game Law, unless the context
7 otherwise requires, the definitions found in sections 37-203 to
8 37-247 and sections 16 and 17 of this act are used.

9 Sec. 16. Captive, as it pertains to captive wildlife,
10 captive wild birds, or captive wild mammals, means the condition of
11 captivity.

12 Sec. 17. Captivity means a condition which limits or
13 restricts the free egress or free range of wild birds, wild
14 mammals, or wildlife by the use of fences, barriers, or restraints.

15 Sec. 18. Section 37-406, Revised Statutes Supplement,
16 2000, is amended to read:

17 37-406. (1) Licenses, permits, and stamps required under
18 the Game Law shall be issued by the commission and may be procured
19 from the secretary of the commission. The commission may provide
20 for the electronic issuance of any license, permit, or stamp
21 required under the Game Law and may enter into contracts to procure
22 necessary services and supplies for the electronic issuance of
23 licenses, permits, and stamps. The commission may designate other
24 persons, firms, and corporations as agents to issue licenses,
25 permits, and stamps and collect the prescribed fees. Any person,
26 firm, or corporation, other than the secretary of the commission or
27 an employee of the commission, authorized by the commission to
28 issue licenses, permits, and stamps shall be entitled to collect

1 and retain an additional fee of not less than fifty cents and not
2 more than one dollar, as established by the commission pursuant to
3 section 37-327, for each license, permit, or stamp issued as
4 reimbursement for the clerical work of issuing the license, permit,
5 or stamp and collecting and remitting the fees.

6 (2) The commission shall adopt and promulgate rules and
7 regulations regarding electronic issuance of licenses, permits, and
8 stamps, including electronic issuance devices, deposits by agents,
9 and remittance of fees. The commission may provide for the
10 electronic issuance of a stamp by acknowledging the purchase of
11 such stamp without requiring a physical stamp or facsimile of such.

12 (3) It shall be unlawful for any person to duplicate any
13 electronically issued license, permit, or stamp. Any person
14 violating this subsection shall be guilty of a Class III
15 misdemeanor and shall be fined at least seventy-five dollars, and
16 any license, permit, or stamp involved in such violation shall be
17 confiscated by the court.

18 Sec. 19. Section 37-407, Revised Statutes Supplement,
19 2001, is amended to read:

20 37-407. The commission shall establish fees pursuant to
21 section 37-327 to be paid to the state for resident and nonresident
22 hunting permits, annual fishing permits, three-day fishing permits,
23 combined fishing and hunting permits, and fur-harvesting permits,
24 as follows:

25 (1) Resident fees shall be (a) not less than eight
26 dollars and fifty cents and not more than eleven dollars for
27 hunting, (b) not less than eleven dollars and fifty cents and not
28 more than fifteen dollars for fishing, (c) not less than seven

1 dollars and fifty cents and not more than ten dollars for a
2 three-day fishing permit, (d) not less than nineteen dollars and
3 fifty cents and not more than twenty-five dollars for both fishing
4 and hunting, and (e) not less than fifteen dollars and not more
5 than twenty dollars for fur harvesting; and

6 (2) Nonresident fees shall be (a) not less than ~~two~~
7 ~~hundred dollars~~ resident fees and not more than two hundred sixty
8 dollars for a period of time specified by the commission for fur
9 harvesting one thousand or less fur-bearing animals and not less
10 than ten dollars additional and not more than fifteen dollars
11 additional for each one hundred or part of one hundred fur-bearing
12 animals harvested, (b) (i) for persons sixteen years of age and
13 older, not less than fifty-five dollars and not more than
14 seventy-two dollars for hunting and (ii) for persons under sixteen
15 years of age, not less than the fee required pursuant to
16 subdivision (1) (a) of this section for hunting, (c) not less than
17 ten dollars and seventy-five cents and not more than fourteen
18 dollars for a three-day fishing permit, and (d) not less than
19 thirty-five dollars and not more than forty-five dollars for an
20 annual fishing permit.

21 Sec. 20. Section 37-426, Revised Statutes Supplement,
22 2001, is amended to read:

23 37-426. (1) Except as provided in subsection (3) of this
24 section:

25 (a) No resident of Nebraska sixteen years of age or older
26 and no nonresident of Nebraska regardless of age shall hunt,
27 harvest, or possess any game bird, upland game bird, game animal,
28 or fur-bearing animal unless, at the time of such hunting,

1 harvesting, or possessing, such person carries on or about his or
2 her person an unexpired habitat stamp validated as prescribed by
3 the rules and regulations of the commission prior to the time of
4 hunting, harvesting, or possessing such bird or animal; and

5 (b) No resident or nonresident of Nebraska eighteen years
6 of age or older shall take or possess any aquatic organism
7 requiring a Nebraska fishing permit, including any fish, bullfrog,
8 snapping turtle, tiger salamander, or mussel unless, at the time of
9 such taking or possessing, such person carries on or about his or
10 her person an unexpired aquatic habitat stamp validated as
11 prescribed by the rules and regulations of the commission prior to
12 the time of taking or possessing a fish, bullfrog, snapping turtle,
13 tiger salamander, or mussel.

14 (2) The commission may issue to any Nebraska resident a
15 lifetime habitat stamp upon application and payment of the
16 appropriate fee. The fee for a lifetime habitat stamp shall be
17 twenty times the fee required in subsection (4) of this section for
18 annual habitat stamps. Payment of such fee shall be made in a lump
19 sum at the time of application. A lifetime habitat stamp shall not
20 be made invalid by reason of the holder subsequently residing
21 outside the state. A replacement lifetime habitat stamp may be
22 issued if the original is lost or destroyed. The fee for a
23 replacement shall be not less than one dollar and fifty cents and
24 not more than five dollars, as established by the commission.

25 (3) Habitat stamps are not required for holders of
26 limited permits issued under section 37-455. Aquatic habitat
27 stamps are not required (a) when a fishing permit is not required,
28 (b) for holders of permits pursuant to section 37-424, or (c) for

1 holders of lifetime fishing permits or lifetime combination hunting
2 and fishing permits. For purposes of this section, a showing of
3 proof of the electronic issuance of a stamp by the commission shall
4 fulfill the requirements of this section.

5 (4) Any person to whom a stamp has been issued shall,
6 immediately upon request, exhibit the stamp to any officer. Any
7 person hunting, fishing, harvesting, or possessing any game bird,
8 upland game bird, game animal, or fur-bearing animal or any aquatic
9 organism requiring a fishing permit in this state without the
10 appropriate stamp attached to or printed on a valid hunting or
11 fur-harvesting permit or fishing permit and not actually on or
12 about his or her person shall be deemed to be without such stamp.
13 A habitat stamp shall be issued upon the payment of a fee of not
14 less than ten dollars and not more than fifteen dollars per stamp.
15 An aquatic habitat stamp shall be issued upon the payment of a fee
16 of not less than five and not more than six dollars and fifty cents
17 per stamp. The commission shall establish the fees pursuant to
18 section 37-327.

19 Sec. 21. Section 37-440, Revised Statutes Supplement,
20 2000, is amended to read:

21 37-440. (1) The commission shall prescribe the type and
22 design of permits and the method of display of permits for motor
23 vehicles. The commission may provide for the electronic issuance
24 of permits and may enter into contracts to procure necessary
25 services and supplies for the electronic issuance of permits.

26 (2) The permits may be procured from the central and
27 district offices of the commission, at areas of the Nebraska state
28 park system where commission offices are maintained, from

1 self-service vending stations at designated park areas, from
2 designated commission employees, through Internet sales from the
3 commission's web site, from appropriate offices of county
4 government, and from various private persons, firms, or
5 corporations designated by the commission as permit agents. ~~Such~~
6 ~~county~~ County offices or private persons, firms, or corporations
7 designated by the commission as permit agents shall be entitled to
8 collect and retain a fee of not less than twenty-five cents and not
9 more than thirty-five cents, as established by the commission
10 pursuant to section 37-327, for each permit as reimbursement for
11 the clerical work of issuing the permits and remitting therefor.
12 The commission shall be entitled to collect and retain a fee of one
13 dollar for each permit sold through its web site as reimbursement
14 for the clerical work and postage associated with issuing the
15 permit.

16 Sec. 22. Section 37-453, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 37-453. Applications for the special permits provided
19 for in section 37-447, 37-449, or 37-450 shall be made individually
20 or on a unit basis. If such application is made on a unit basis,
21 not more than ~~two~~ five applicants may apply for such permit in one
22 application. If such application is granted, such special permits
23 shall be issued to the persons so applying. If any one of the
24 persons so applying shall be ineligible to receive such special
25 permit, the entire group so applying shall be disqualified. No
26 person applying for such special permit on a unit basis shall also
27 apply individually.

28 Sec. 23. Section 37-455, Revised Statutes Supplement,

1 2001, is amended to read:

2 37-455. (1) The commission may issue a limited permit
3 for deer, antelope, wild turkey, or elk to a person who is a
4 qualifying landowner or leaseholder and his or her immediate family
5 as described in this section. A permit shall be valid during the
6 predetermined period established by the commission pursuant to
7 sections 37-447 to 37-450, 37-452, 37-456, or 37-457. Upon receipt
8 of an application in proper form as prescribed by the rules and
9 regulations of the commission, the commission may issue (a) a
10 limited deer, antelope, or wild turkey permit valid for hunting on
11 all of the land which is owned or leased by the qualifying
12 landowner or leaseholder if such lands are identified in the
13 application or (b) a limited elk permit valid for hunting on the
14 entire elk management unit of which the land of the qualifying
15 landowner or leaseholder included in the application is a part.

16 (2) (a) The commission shall adopt and promulgate rules
17 and regulations prescribing procedures and forms and create
18 requirements for documentation by an applicant or permittee to
19 determine whether the applicant or permittee is a Nebraska resident
20 and is a qualifying landowner or leaseholder of the described
21 property or is a member of the immediate family of and residing in
22 the same household as such qualifying landowner or leaseholder.
23 Only a person who is a qualifying landowner or leaseholder and such
24 person's immediate family residing in the same household as such
25 qualifying landowner or leaseholder may apply for a limited permit.
26 For purposes of this section, immediate family means and is limited
27 to a husband and wife and their children.

28 (b) The conditions applicable to permits issued pursuant

1 to sections 37-447 to 37-450, 37-452, 37-456, or 37-457, whichever
2 is appropriate, shall apply to limited permits issued pursuant to
3 this section, except that the commission may adopt and promulgate
4 rules and regulations for species harvest allocation pertaining to
5 the sex and age of the species harvested which are different for a
6 limited permit than for other hunting permits. For purposes of
7 this section, white-tailed deer and mule deer shall be treated as
8 one species.

9 (3) (a) To qualify for a limited permit to hunt deer or
10 antelope, the applicant shall be a Nebraska resident who owns or
11 leases eighty acres or more of farm or ranch land for agricultural
12 purposes or a member of such person's immediate family residing in
13 the same household. The number of limited permits issued annually
14 per species for each farm or ranch shall not exceed the total
15 acreage of the farm or ranch divided by eighty. An applicant may
16 apply for no more than one permit per species per year. The fee
17 for a limited permit to hunt deer or antelope shall be one-half the
18 fee for the regular permit for such species.

19 (b) The commission may adopt and promulgate rules and
20 regulations providing for the issuance of an additional limited
21 deer permit to a qualified individual for the taking of a deer
22 without antlers at a fee equal to or less than the fee for the
23 original limited permit.

24 (4) To qualify for a limited permit to hunt wild turkey,
25 the applicant shall be a Nebraska resident who owns or leases
26 eighty acres or more of farm or ranch land for agricultural
27 purposes or a member of such person's immediate family residing in
28 the same household. The number of limited permits issued annually

1 per season for each farm or ranch shall not exceed the total
2 acreage of the farm or ranch divided by eighty. An applicant may
3 apply for no more than one limited permit per season. The fee for
4 a limited permit to hunt wild turkey shall be one-half the fee for
5 the regular permit to hunt wild turkey.

6 (5) To qualify for a limited permit to hunt elk, (a) the
7 applicant shall be (i) a Nebraska resident who owns three hundred
8 twenty acres or more of farm or ranch land for agricultural
9 purposes, (ii) a Nebraska resident who leases three hundred twenty
10 acres or more of farm or ranch land for agricultural purposes and
11 resides on such property, or (iii) a member of such owner or
12 lessee's immediate family residing in the same household and (b)
13 the qualifying farm or ranch land of the applicant shall be within
14 an area designated as an elk management zone by the commission in
15 its rules and regulations. An applicant shall not be issued a
16 limited elk permit more than once every three years, and the
17 commission may give preference to a person who did not receive a
18 limited elk permit or specified type of limited elk permit during
19 the previous years. The fee for a limited permit to hunt elk shall
20 be one-fifth the fee for the regular permit to hunt elk. ~~(1)(a) A~~
21 Nebraska resident who owns or leases eighty acres or more of farm
22 or ranch land for agricultural purposes or a member of such
23 person's immediate family residing in the same household may apply
24 for a limited deer, antelope, wild turkey, or elk permit.

25 ~~(b)~~ A nonresident of Nebraska who owns three hundred
26 twenty acres or more of farm or ranch land in the State of Nebraska
27 for agricultural purposes or a member of such person's immediate
28 family residing in the same household may apply for a limited deer

1 permit. Only one limited deer permit per three hundred twenty
2 acres may be issued annually under this subdivision.

3 (2) The limited permit is valid during the predetermined
4 period established by the commission pursuant to any provision of
5 sections 37-447 to 37-452 and 37-457. To qualify for a limited elk
6 permit the farm or ranch land of the applicant must be within an
7 area designated as an elk zone by the commission in its
8 regulations. Except as provided in subdivision (1)(b) of this
9 section, only one limited permit for each species shall be issued
10 annually for the farm or ranch land described in the application,
11 except that both a spring and a fall turkey permit may be issued.
12 Upon receipt of an application in proper form as prescribed by the
13 commission, the commission may issue a limited permit which shall
14 restrict (a) the limited deer, antelope, or wild turkey permit to
15 hunting only on the farm or ranch land included in the application
16 and shall not apply to the land of other persons and (b) the
17 limited elk permit to hunting on the entire elk management unit of
18 which the farm or ranch land included in the application is a part.
19 For purposes of this section, immediate family means and is limited
20 to husband and wife and their children. The conditions applicable
21 to permits issued pursuant to section 37-447, 37-448, 37-449,
22 37-450, 37-452, or 37-457, whichever is appropriate, shall apply to
23 limited permits issued pursuant to this section, except that the
24 commission may adopt regulations for species harvest allocation
25 pertaining to the sex and age of the species harvested which are
26 different for this permit than for other hunting permits.

27 (3) Except as provided in subsection (4) of this section,
28 receipt of a limited permit or a permit issued pursuant to section

1 ~~37-447, 37-448, 37-449, 37-450, 37-452, or 37-457 for any one-year~~
2 ~~or open season shall not bar receipt of a limited permit in any~~
3 ~~subsequent year or for any subsequent open season.~~

4 ~~(4) A limited elk permit issued pursuant to this section~~
5 ~~shall not be issued to any applicant more than once every three~~
6 ~~years.~~

7 ~~(5) The fee for a limited permit to hunt elk shall be~~
8 ~~one-fifth the fee for the regular permit to hunt elk. The fee for~~
9 ~~a limited permit to hunt deer, antelope, or wild turkey shall be~~
10 ~~one-half the fee for the regular permit for these species, except~~
11 ~~that the fee for a nonresident limited deer permit shall be~~
12 ~~one-half the fee for a nonresident permit to hunt deer.~~

13 ~~(6) The commission may by rule and regulation prescribe~~
14 ~~forms to be filled out by the applicant for a limited permit as~~
15 ~~prescribed in this section to determine whether the applicant is a~~
16 ~~Nebraska resident and is the owner or lessee of the described~~
17 ~~property or is a member of the family or household of such person.~~

18 Sec. 24. Section 37-491, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 37-491. Every individual hunting game birds upon a
21 licensed game breeding and controlled shooting area shall secure a
22 hunting permit and a habitat stamp in accordance with the laws of
23 the State of Nebraska, except that nonresidents of the State of
24 Nebraska shall in addition to securing a habitat stamp pay a
25 license fee of not less than five dollars and not more than seven
26 dollars, as established by the commission pursuant to section
27 37-327 are not required to secure a hunting permit but are required
28 to secure a habitat stamp and pay a license fee, not less than the

1 cost of a resident hunting permit, as established by the commission
2 pursuant to section 37-327.

3 Sec. 25. Section 37-4,105, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 37-4,105. ~~(1) Individuals~~ It shall be unlawful for
6 individuals, either resident or nonresident, ~~over sixteen years of~~
7 ~~age selling to sell~~ baitfish or ~~salamanders as bait for profit~~
8 ~~shall be required to purchase from~~ amphibians except according to
9 rules and regulations established by the commission. The
10 commission may require a bait dealer's permit for a fee of not less
11 than twenty-five dollars and not more than thirty-two dollars for
12 residents and not less than one hundred fifty dollars and not more
13 than two hundred dollars for nonresidents, as established by the
14 commission pursuant to section 37-327.

15 ~~(2) Individuals over sixteen years of age and residents~~
16 ~~of this state selling crayfish or leopard or striped frogs shall~~
17 ~~purchase from the commission a resident bait dealer's permit for a~~
18 ~~fee of not less than twenty-five dollars and not more than~~
19 ~~thirty-two dollars,~~ as established by the commission pursuant to
20 ~~section 37-327,~~ except that if such individual holds a permit for
21 ~~baitfish or salamanders as provided in this section,~~ such permit
22 ~~shall include crayfish and leopard or striped frogs.~~

23 ~~(3) The applications for such permits~~ If such permits are
24 required by the commission, the application shall include the
25 social security ~~numbers~~ number of the ~~applicants~~ applicant.

26 Sec. 26. Section 37-4,106, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 37-4,106. Nonresidents holding a valid nonresident fish

1 dealer's permit may possess, buy, sell, transport, and ship live
2 baitfish, live fish, ~~all frogs,~~ and ~~crayfish~~ other bait species as
3 specified in commission rules and regulations legally obtained from
4 outside this state or from a licensed aquaculture facility in
5 accordance with rules and regulations adopted and promulgated by
6 the commission. The application for the permit shall include the
7 applicant's social security number. The fee for a nonresident fish
8 dealer's permit shall be not less than fifty dollars and not more
9 than sixty-five dollars, as established by the commission pursuant
10 to section 37-327.

11 Sec. 27. Section 37-525, Revised Statutes Supplement,
12 2000, is amended to read:

13 37-525. (1) ~~It~~ Except as provided in section 37-483 and
14 rules and regulations established by the commission, it shall be
15 unlawful for any person to kill or capture take game birds or game
16 animals during any closed season while training or running a dog.
17 ~~except as provided in section 37-483, except that game birds~~
18 ~~obtained from the holder of a captive wildlife permit which have~~
19 ~~been marked according to commission regulations may be pursued and~~
20 ~~taken at any time, according to rules and regulations established~~
21 ~~by the commission, on privately owned lands, during a dog trial~~
22 ~~which is conducted under written authority of the commission as~~
23 ~~required in section 37-412, or for purposes of novice hunter~~
24 ~~education under authority of a permit issued by the commission.~~
25 ~~Game animals may be pursued but not taken under such authority,~~
26 ~~except that this restriction shall not apply to novice hunter~~
27 ~~education provided under authority of a permit issued by the~~
28 ~~commission.~~

1 (2) The commission shall adopt and promulgate rules and
2 regulations which regulate taking game birds or game animals for
3 the purpose of training bird or hunting dogs on public and private
4 land, the licensing of dog training areas, and the administration
5 of novice hunter education activities in which game birds or game
6 animals may be taken. Such rules and regulations may limit dog
7 training to noncommercial activities and shall include, but not be
8 limited to, the following: Administration of a novice hunter
9 education program and the issuance of a permit to conduct such a
10 program, limitations on dog training activities, requirements for
11 dog training areas, possession requirements, open areas, seasons,
12 methods, time periods in which taking is authorized, species to be
13 taken, and requirements for dog trials as specified in section
14 37-412. ~~to carry out and administer the novice hunter education~~
15 ~~program and permit issuance under such program. A person who~~
16 ~~purchases game birds from the holder of a captive wildlife permit~~
17 ~~shall have in his or her possession a receipt from the permitholder~~
18 ~~listing the species and number of birds purchased.~~

19 ~~(2) Any person in legal possession of game birds marked~~
20 ~~according to commission regulations may pursue and take such game~~
21 ~~birds on publicly owned lands that have been approved by the~~
22 ~~commission and posted with authorized dog training area signs.~~

23 (3) No dog shall be run upon private property under this
24 section at any time without the express permission of the landowner
25 or tenant.

26 (4) Any person violating this section shall be guilty of
27 a Class III misdemeanor and shall be fined at least fifty dollars.

28 Sec. 28. The commission shall adopt and promulgate rules

1 and regulations relating to the appropriate weapons which may be
2 used for hunting wildlife. The rules and regulations shall take
3 effect beginning January 1, 2004.

4 Sec. 29. Section 37-528, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 37-528. (1) During any season which permits hunting deer
7 with rifles using center-fire cartridges, wild animals other than
8 deer may be hunted only with a shotgun, .22 rimfire rifle, ~~or~~ .22
9 rimfire handgun, or a smaller caliber rimfire rifle or handgun,
10 except that this section does not apply to a holder of a valid deer
11 permit or a limited deer permit under section 37-455 or to a bona
12 fide farmer or rancher who owns, leases, or resides upon farm or
13 ranch land or a member of the immediate family of such farmer or
14 rancher while hunting on such farm or ranch land.

15 (2) Any person violating this section shall be guilty of
16 a Class II misdemeanor and shall be fined at least forty dollars.

17 Sec. 30. The commission may adopt and promulgate rules
18 and regulations to permit the taking of paddlefish. The commission
19 may, pursuant to section 37-327, establish and charge a
20 nonrefundable application fee of not less than five dollars and not
21 more than ten dollars. Permits, as authorized by the commission,
22 shall be awarded by random drawing to eligible applicants. No
23 permit fee shall be charged in addition to the nonrefundable
24 application fee.

25 Sec. 31. Section 37-608, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 37-608. Any law enforcement official, including any
28 conservation officer, may enforce sections 37-305 to 37-313, ~~and~~

1 the rules and regulations established under the authority of
2 sections 60-680 and 60-6,190, and federal orders restricting access
3 to federal lands under a memorandum of understanding or cooperative
4 agreement with a federal agency. When a violation has occurred in
5 or on any area under the ownership or control of the commission or
6 federal lands as authorized under this section, any conservation
7 officer may arrest and detain any person committing such violation
8 or committing any misdemeanor or felony as provided by the laws of
9 this state or federal orders as authorized under this section until
10 a legal warrant can be obtained.

11 Sec. 32. Section 37-724, Revised Statutes Supplement,
12 2000, is amended to read:

13 37-724. The landowner or tenant who is the principal
14 operator of a farm or ranch may post such property ~~with~~ to allow
15 for hunting, by written permission only, in the following ways:

16 (1) With signs reading Hunting By Written Permission
17 Only. The ~~7~~ ~~which~~ signs shall be at least eleven by fourteen
18 inches with letters at least one and one-half inches high, and
19 ~~which~~ shall be placed at each field entrance and at intervals of
20 not more than four hundred forty yards and at all property corners.
21 The name and address of the owner or tenant shall be on each sign;
22 or

23 (2) By placing identifying red paint marks on trees or
24 posts in the following manner:

25 (a) The identifying red paint marks shall be vertical
26 lines of at least eight inches in length and three inches in width
27 on trees or on any post which is not metal, or if metal posts are
28 used, the identifying red paint marks shall completely surround the

1 post and extend down at least eight inches from the top of the
2 metal post. The bottom edge of the identifying red paint marks
3 shall be not less than three feet and not more than five feet off
4 the ground;

5 (b) The identifying red paint marks shall be readily
6 visible to any person approaching the property; and

7 (c) The identifying red paint marks shall be placed at
8 each field entrance and shall not be more than one hundred yards
9 apart.

10 Sec. 33. Section 37-806, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 37-806. (1) Any species of wildlife or wild plants
13 determined to be an endangered species pursuant to the Endangered
14 Species Act shall be an endangered species under the Nongame and
15 Endangered Species Conservation Act, and any species of wildlife or
16 wild plants determined to be a threatened species pursuant to the
17 Endangered Species Act shall be a threatened species under the
18 Nongame and Endangered Species Conservation Act. The commission
19 may determine that any such threatened species is an endangered
20 species throughout all or any portion of the range of such species
21 within this state.

22 (2) In addition to the species determined to be
23 endangered or threatened pursuant to the Endangered Species Act,
24 the commission shall by regulation determine whether any species of
25 wildlife or wild plants normally occurring within this state is an
26 endangered or threatened species as a result of any of the
27 following factors:

28 (a) The present or threatened destruction, modification,

1 or curtailment of its habitat or range;

2 (b) Overutilization for commercial, sporting, scientific,
3 educational, or other purposes;

4 (c) Disease or predation;

5 (d) The inadequacy of existing regulatory mechanisms; or

6 (e) Other natural or manmade factors affecting its
7 continued existence within this state.

8 (3) (a) The commission shall make determinations required
9 by subsection (2) of this section on the basis of the best
10 scientific, commercial, and other data available to the commission.

11 (b) Except with respect to species of wildlife or wild
12 plants determined to be endangered or threatened species under
13 subsection (1) of this section, the commission may not add a
14 species to nor remove a species from any list published pursuant to
15 subsection (5) of this section unless the commission has first:

16 ~~(a) Published a~~ (i) Provided public notice of such
17 proposed action by publication in a newspaper of general
18 circulation in each county in that portion of the subject species'
19 range in which it is endangered or threatened or, if the subject
20 species' range extends over more than five counties, in a newspaper
21 of statewide circulation distributed in the county;

22 (ii) Provided notice of such proposed action to and
23 allowed comment from the Department of Agriculture, the Department
24 of Environmental Quality, and the Department of Natural Resources;

25 (iii) Provided notice of such proposed action to and
26 allowed comment from each natural resources district and public
27 power district located in that portion of the subject species'
28 range in which it is endangered or threatened;

1 ~~(b)~~ (iv) Notified the Governor of any state sharing a
2 common border with this state, in which the subject species is
3 known to occur, that such action is being proposed; ~~and~~

4 ~~(c)~~ (v) Allowed at least ~~thirty~~ sixty days following
5 publication for comment from the public and other interested
6 parties;

7 (vi) Held at least one public hearing on such proposed
8 action in each game and parks commissioner district of the subject
9 species' range in which it is endangered or threatened;

10 (vii) Submitted the scientific, commercial, and other
11 data which is the basis of the proposed action to scientists or
12 experts outside and independent of the commission for peer review
13 of the data and conclusions. If the commission submits the data to
14 a state or federal fish and wildlife agency for peer review, the
15 commission shall also submit the data to scientists or experts not
16 affiliated with such an agency for review. For purposes of this
17 section, state fish and wildlife agency does not include a
18 postsecondary educational institution; and

19 (viii) For species proposed to be added under this
20 subsection but not for species proposed to be removed under this
21 subsection, developed an outline of the potential impacts,
22 requirements, or regulations that may be placed on private
23 landowners, or other persons who hold state-recognized property
24 rights on behalf of themselves or others, as a result of the
25 listing of the species or the development of a proposed program for
26 the conservation of the species as required in subsection (1) of
27 section 37-807.

28 The inadvertent failure to provide notice as required by

1 subdivision (3)(b) of this section shall not prohibit the listing
2 of a species and shall not be deemed to be a violation of the
3 Administrative Procedure Act or the Nongame and Endangered Species
4 Conservation Act.

5 (c) When the commission is proposing to add or remove a
6 species under this subsection, public notice under subdivision
7 (3)(b)(i) of this section shall include, but not be limited to, (i)
8 the species proposed to be listed and a description of that portion
9 of its range in which the species is endangered or threatened, (ii)
10 a declaration that the commission submitted the data which is the
11 basis for the listing for peer review and developed an outline if
12 required under subdivision (b)(viii) of this subsection, and (iii)
13 a declaration of the availability of the peer review, including an
14 explanation of any changes or modifications the commission has made
15 to its proposal as a result of the peer review, and the outline
16 required under subdivision (b)(viii) of this subsection, if
17 applicable, for public examination.

18 (d) In cases when the commission determines that an
19 emergency situation exists involving the continued existence of
20 such species as a viable component of the wild fauna or flora of
21 the state, the commission may add species to such lists after
22 having first published a public notice that such an emergency
23 situation exists together with a summary of facts which support
24 such determination.

25 (4) In determining whether any species of wildlife or
26 wild plants is an endangered or threatened species, the commission
27 shall take into consideration those actions being carried out by
28 the federal government, by other states, by other agencies of this

1 state or political subdivisions thereof, or by any other person
2 which may affect the species under consideration.

3 (5) The commission shall issue regulations containing a
4 list of all species of wildlife and wild plants normally occurring
5 within this state which it determines, in accordance with
6 subsections (1) through (4) of this section, to be endangered or
7 threatened species and a list of all such species. Each list shall
8 refer to the species contained therein by scientific and common
9 name or names, if any, and shall specify with respect to each such
10 species over what portion of its range it is endangered or
11 threatened.

12 (6) Except with respect to species of wildlife or wild
13 plants determined to be endangered or threatened pursuant to the
14 Endangered Species Act, the commission shall, upon the petition of
15 an interested person, conduct a review of any listed or unlisted
16 species proposed to be removed from or added to the lists published
17 pursuant to subsection (5) of this section, but only if the
18 commission publishes a public notice that such person has presented
19 substantial evidence which warrants such a review.

20 (7) Whenever any species of wildlife or wild plants is
21 listed as a threatened species pursuant to subsection (5) of this
22 section, the commission shall issue such regulations as are
23 necessary to provide for the conservation of such species. The
24 commission may prohibit, with respect to any threatened species of
25 wildlife or wild plants, any act prohibited under subsection (8) or
26 (9) of this section.

27 (8) With respect to any endangered species of wildlife,
28 it shall be unlawful, except as provided in subsection (7) of this

1 section, for any person subject to the jurisdiction of this state
2 to:

3 (a) Export any such species from this state;

4 (b) Take any such species within this state;

5 (c) Possess, process, sell or offer for sale, deliver,
6 carry, transport, or ship, by any means whatsoever except as a
7 common or contract motor carrier under the jurisdiction of the
8 Public Service Commission or the Interstate Commerce Commission,
9 any such species; or

10 (d) Violate any regulation pertaining to the conservation
11 of such species or to any threatened species of wildlife listed
12 pursuant to this section and promulgated by the commission pursuant
13 to the Nongame and Endangered Species Conservation Act.

14 (9) With respect to any endangered species of wild
15 plants, it shall be unlawful, except as provided in subsection (7)
16 of this section, for any person subject to the jurisdiction of this
17 state to:

18 (a) Export any such species from this state;

19 (b) Possess, process, sell or offer for sale, deliver,
20 carry, transport, or ship, by any means whatsoever, any such
21 species; or

22 (c) Violate any regulation pertaining to such species or
23 to any threatened species of wild plants listed pursuant to this
24 section and promulgated by the commission pursuant to the act.

25 (10) Any endangered species of wildlife or wild plants
26 which enters this state from another state or from a point outside
27 the territorial limits of the United States and which is being
28 transported to a point within or beyond this state may be so

1 entered and transported without restriction in accordance with the
2 terms of any federal permit or permit issued under the laws or
3 regulations of another state.

4 (11) The commission may permit any act otherwise
5 prohibited by subsection (8) of this section for scientific
6 purposes or to enhance the propagation or survival of the affected
7 species.

8 (12) Any law, regulation, or ordinance of any political
9 subdivision of this state which applies with respect to the taking,
10 importation, exportation, possession, sale or offer for sale,
11 processing, delivery, carrying, transportation other than under the
12 jurisdiction of the Public Service Commission, or shipment of
13 species determined to be endangered or threatened species pursuant
14 to the Nongame and Endangered Species Conservation Act shall be
15 void to the extent that it may effectively (a) permit that which is
16 prohibited by the act or by any regulation which implements the act
17 or (b) prohibit that which is authorized pursuant to an exemption
18 or permit provided for in the act or in any regulation which
19 implements the act. The Nongame and Endangered Species
20 Conservation Act shall not otherwise be construed to void any law,
21 regulation, or ordinance of any political subdivision of this state
22 which is intended to conserve wildlife or wild plants.

23 Sec. 34. Section 49-1401, Revised Statutes Supplement,
24 2001, is amended to read:

25 49-1401. Sections 49-1401 to 49-14,141 and section 36 of
26 this act shall be known and may be cited as the Nebraska Political
27 Accountability and Disclosure Act. Any reference to sections
28 49-1401 to 49-14,138 shall be construed to include sections

1 49-1499.01 and 49-14,103.01 to 49-14,103.07. After August 25,
2 1989, any reference to sections 49-1401 to 49-14,138 shall be
3 construed to include sections 49-14,123.01 and 49-14,140.

4 Sec. 35. Section 49-1493, Revised Statutes Supplement,
5 2001, is amended to read:

6 49-1493. The individuals listed in subdivisions (1)
7 through ~~(12)~~ (13) of this section shall file with the commission a
8 statement of financial interests as provided in sections 49-1496
9 and 49-1497 for the preceding calendar year on or before April 1 of
10 each year in which such individual holds such a position. An
11 individual who leaves office shall, within thirty days after
12 leaving office, file a statement covering the period since the
13 previous statement was filed. Disclosure of the interest named in
14 sections 49-1496 to 49-1498 shall be made by:

15 (1) An individual holding a state executive office as
16 provided in Article IV of the Constitution of Nebraska, including
17 the Governor, Lieutenant Governor, Secretary of State, Auditor of
18 Public Accounts, State Treasurer, Attorney General, Tax
19 Commissioner, and heads of such other executive departments as set
20 forth in the Constitution or as may be established by law;

21 (2) An individual holding the office of Commissioner of
22 Education, member of the State Board of Education, member of the
23 Board of Regents of the University of Nebraska with the exception
24 of student members, or member of the Coordinating Commission for
25 Postsecondary Education;

26 (3) A member of the Board of Parole;

27 (4) A member of the Public Service Commission;

28 (5) A member of the Legislature;

1 (6) A member of the board of directors or an officer of a
2 district organized under the provisions of Chapter 70;

3 (7) A member of any board or commission of the state or
4 any county which examines or licenses a business or which
5 determines rates for or otherwise regulates a business;

6 (8) A member of a land-use planning commission, zoning
7 commission, or authority of the state or any county with a
8 population of more than one hundred thousand inhabitants;

9 (9) An elected official of a city of the primary or
10 metropolitan class;

11 (10) An elected county official;

12 (11) A member of the Nebraska Environmental Trust Board;

13 (12) An individual employed at the University of
14 Nebraska-Lincoln in the position of Head Football Coach, Men's
15 Basketball Coach, or Women's Basketball Coach; and

16 ~~(12)~~ (13) An official or employee of the state designated
17 by rules and regulations of the commission who is responsible for
18 taking or recommending official action of a nonministerial nature
19 with regard to:

20 (a) Contracting or procurement;

21 (b) Administering or monitoring grants or subsidies;

22 (c) Land-use planning or zoning;

23 (d) Inspecting, licensing, regulating, or auditing any
24 person; or

25 (e) Any similar action.

26 Sec. 36. Any member of the Nebraska Environmental Trust
27 Board who is also a director of a state agency shall abstain from
28 voting on applications pursuant to the Nebraska Environmental Trust

1 Act which would provide funding primarily to his or her agency.

2 Sec. 37. Section 54-2302, Revised Statutes Supplement,
3 2000, is amended to read:

4 54-2302. Sections 54-2302 to 54-2323 and section 39 of
5 this act shall be known and may be cited as the Domesticated
6 Cervine Animal Act.

7 Sec. 38. Section 54-2305, Revised Statutes Supplement,
8 2000, is amended to read:

9 54-2305. On and after January 1, 2000, it is unlawful
10 for any person to own, possess, buy, sell, or barter any
11 domesticated cervine animal in this state unless such animal is
12 individually identified and kept at a premises for which a
13 domesticated cervine animal facility permit has been issued by the
14 department. Permits shall be issued only after a determination
15 that the applicant is in compliance with the Domesticated Cervine
16 Animal Act. This section shall not be construed to require a
17 municipal, state, or federal zoo, park, refuge, or wildlife area, a
18 bona fide circus or animal exhibit, or any private, nonprofit
19 zoological society to obtain a permit in order to own, possess,
20 buy, sell, or barter a domesticated cervine animal, but such
21 facilities shall be governed by the provisions of the act and the
22 rules and regulations promulgated thereunder regarding the testing,
23 control, and eradication of cervidae diseases including chronic
24 wasting disease.

25 Sec. 39. Nothing in the Domesticated Cervine Animal Act
26 shall be construed to authorize any person to import, own, or
27 possess any species of cervine animal the importation or possession
28 of which is prohibited under section 37-524 and the rules and

1 regulations promulgated thereunder.

2 Sec. 40. Section 54-2322, Revised Statutes Supplement,
3 2000, is amended to read:

4 54-2322. The commission shall have access, upon
5 notification, to any premises where domesticated cervine animals
6 may be for the purpose of assessing or removing populations of wild
7 cervidae.

8 Sec. 41. Section 66-1519, Revised Statutes Supplement,
9 2001, is amended to read:

10 66-1519. There is hereby created the Petroleum Release
11 Remedial Action Cash Fund to be administered by the department.
12 Revenue from the following sources shall be remitted to the State
13 Treasurer for credit to the fund:

14 (1) The fees imposed by sections 66-1520 and 66-1521;

15 (2) Money paid under an agreement, stipulation,
16 cost-recovery award under section 66-1529.02, or settlement; and

17 (3) Money received by the department in the form of
18 gifts, grants, reimbursements, property liquidations, or
19 appropriations from any source intended to be used for the purposes
20 of the fund.

21 Money in the fund may only be spent for: (a)
22 Reimbursement for the costs of remedial action by a responsible
23 person or his or her designated representative and costs of
24 remedial action undertaken by the department in response to a
25 release first reported after July 17, 1983, and on or before June
26 30, 2005, including reimbursement for damages caused by the
27 department or a person acting at the department's direction while
28 investigating or inspecting or during remedial action on property

1 other than property on which a release or suspected release has
2 occurred; (b) payment of any amount due from a third-party claim;
3 (c) fee collection expenses incurred by the State Fire Marshal; (d)
4 direct expenses incurred by the department in carrying out the
5 Petroleum Release Remedial Action Act; (e) other costs related to
6 fixtures and tangible personal property as provided in section
7 66-1529.01; (f) interest payments as allowed by section 66-1524;
8 (g) expenses incurred by the technical advisory committee created
9 in section 81-15,189 in carrying out its duties pursuant to section
10 81-15,190; (h) claims approved by the State Claims Board authorized
11 under section 66-1531; and (i) methyl tertiary butyl ether testing,
12 to be conducted randomly at terminals within the state for up to
13 two years ending June 30, 2003. The amount expended on the testing
14 shall not exceed forty thousand dollars. The testing shall be
15 conducted by the Department of Agriculture. The department may
16 enter into contractual arrangements for such purpose. The results
17 of the tests shall be made available to the Department of
18 Environmental Quality.

19 Transfers may be made from the Petroleum Release Remedial
20 Action Cash Fund to the Water Policy Task Force Cash Fund at the
21 direction of the Legislature. Any money in the fund Petroleum
22 Release Remedial Action Cash Fund available for investment shall be
23 invested by the state investment officer pursuant to the Nebraska
24 Capital Expansion Act and the Nebraska State Funds Investment Act.

25 Within fifteen days after the effective date of this act,
26 the State Treasurer shall transfer one hundred fifty thousand
27 dollars from the Petroleum Release Remedial Action Cash Fund to the
28 Water Policy Task Force Cash Fund.

1 Sec. 42. Section 72-2005, Revised Statutes Supplement,
2 2000, is amended to read:

3 72-2005. As a result of the recent federal court ruling
4 in National Parks and Conservation Association v. National Park
5 Service and in order to maintain an aspect of local control over
6 the Niobrara scenic river corridor, the Legislature finds that
7 there is a need to reconstitute the existing Niobrara Council with
8 the express authority and responsibility to manage the Niobrara
9 scenic river corridor in conjunction with the National Park
10 Service. The purpose of ~~sections 72-2005 to 72-2012~~ the Niobrara
11 Scenic River Act is to effectuate changes in the council necessary
12 to ensure the continuation of the cooperative management
13 relationship between the Niobrara Council and the National Park
14 Service so that local participation and control over this valuable
15 natural resource can be maintained.

16 Sec. 43. Section 72-2006, Revised Statutes Supplement,
17 2000, is amended to read:

18 72-2006. For purposes of ~~sections 72-2005 to 72-2012~~ the
19 Niobrara Scenic River Act, Niobrara scenic river corridor means the
20 area designated as a national scenic river and a part of the
21 national wild and scenic rivers system under 16 U.S.C.
22 1274(a)(117), as such section existed on May 24, 1991, and
23 described in the 1996 Niobrara National Scenic River General
24 Management Plan/Environmental Impact Statement.

25 Sec. 44. Section 72-2008, Revised Statutes Supplement,
26 2000, is amended to read:

27 72-2008. The mission of the Niobrara Council is to
28 assist in all aspects of the management of the Niobrara scenic

1 river corridor since portions of the Niobrara River have been
2 designated as a national scenic river under 16 U.S.C. 1274(a) (117),
3 as such section existed on May 24, 1991, giving consideration and
4 respect to local and governmental input and private landowner
5 rights, and to maintain and protect the integrity of the resources
6 associated with the Niobrara scenic river corridor. The council
7 shall perform management functions related to the Niobrara scenic
8 river corridor, including, but not limited to, those authorized and
9 delegated to it by the National Park Service. The council may
10 promulgate its own rules and internal policies to carry out the
11 purposes of the Niobrara Scenic River Act. The Game and Parks
12 Commission may provide administrative support when requested by the
13 council to carry out its duties. This support shall not exceed
14 fifty thousand dollars in any calendar year. In the Niobrara
15 scenic river corridor, the council may hold title to real estate in
16 the name of the council. The council may purchase, accept gifts
17 of, or trade real estate and may obtain conservation easements as
18 provided in the Conservation and Preservation Easements Act.
19 Acquisition of conservation easements outside the boundaries of the
20 Niobrara scenic river corridor shall require the approval of the
21 appropriate governing body as provided in section 76-2,112.

22 Sec. 45. Section 72-2010, Revised Statutes Supplement,
23 2000, is amended to read:

24 72-2010. The Niobrara Council shall review and approve
25 or reject all zoning regulations, including existing regulations,
26 new regulations, proposed regulations, and variances of any type
27 including variances for use and location, granted for nonconforming
28 ~~uses,~~ which affect land in the Niobrara scenic river corridor that

1 is not incorporated within the boundaries of a municipality. If
2 the council rejects a zoning regulation or variance, the governing
3 body enacting the regulation or variance has six months to present
4 an alternative to the council. If no alternative is proposed or if
5 the alternative is also rejected, the council may adopt zoning
6 regulations for such area. In counties without zoning the council
7 may develop and enforce zoning regulations within the Niobrara
8 scenic river corridor under the guidance of the federal Wild and
9 Scenic Rivers Act or under the guidance of the general management
10 plan as written by the National Park Service. The council shall
11 follow the requirements for zoning regulations in sections 23-114
12 to 23-114.05 and 23-164 to 23-174.10, except that no separate
13 planning commission is required and the council shall fulfill the
14 duties of both the county board and the planning commission in such
15 sections.

16 Sec. 46. Section 72-2011, Revised Statutes Supplement,
17 2000, is amended to read:

18 72-2011. (1) Any state or state-assisted activity or
19 undertaking proposed within the Niobrara scenic river corridor
20 shall be consistent with the purpose of the scenic river
21 designation, including the scenic river's free-flowing condition
22 and scenic, geological, biological, agricultural, historic, and
23 prehistoric resources.

24 (2) The head of any state or local agency having direct
25 or indirect jurisdiction over a proposed state or state-assisted
26 undertaking within the Niobrara scenic river corridor and the head
27 of any agency having authority to license or permit any undertaking
28 in such area shall prepare a detailed proposal and submit it to the

1 Niobrara Council for its review.

2 (3) The council shall review the proposal and consult
3 with the agency. ~~If, within thirty days after such review and~~
4 ~~consultation, the council finds that~~ The council has ninety days
5 after the date that the proposal is received to make a
6 determination of whether or not the proposed action is not
7 consistent with the purposes of this section. If the council
8 determines that the proposal is not consistent with the purposes of
9 this section, the council shall so notify the agency and ~~the~~
10 agency shall not proceed with the action until after a
11 justification for the action has been submitted to the Governor and
12 approved by the Governor in writing. The justification shall
13 include the following elements: The anticipated current, future,
14 and cumulative effects on the scenic and natural resources of the
15 designated scenic river corridor; the social and economic necessity
16 for the proposed action; all possible alternatives to the proposed
17 action including a no-action alternative; the comparative benefits
18 of proposed alternative actions; and the mitigation measures
19 outlined in the proposed action.

20 Sec. 47. Sections 72-2005 to 72-2012 and this section
21 shall be known and may be cited as the Niobrara Scenic River Act.

22 Sec. 48. Section 81-15,167, Revised Statutes Supplement,
23 2000, is amended to read:

24 81-15,167. Sections 81-15,167 to 81-15,176 and section
25 50 of this act shall be known and may be cited as the Nebraska
26 Environmental Trust Act.

27 Sec. 49. Section 81-15,170, Revised Statutes Supplement,
28 2000, is amended to read:

1 81-15,170. The Nebraska Environmental Trust Board is
2 hereby created as an entity of the executive branch. The board
3 shall consist of the Director of Environmental Quality, the
4 Director of Regulation and Licensure, the Director of Natural
5 Resources, the Director of Agriculture, the secretary of the Game
6 and Parks Commission, and nine citizens appointed by the Governor
7 with the approval of a majority of the Legislature. The citizen
8 members shall begin serving immediately following notice of
9 nomination and prior to approval by the Legislature. The citizen
10 members shall represent the general public and shall have
11 demonstrated competence, experience, and interest in the
12 environment of the state. Two of the citizen appointees shall also
13 have experience with private financing of public-purpose projects.
14 Three appointees shall be chosen from each of the three
15 congressional districts. The board shall hire an executive
16 director who shall hire and supervise other staff members as may be
17 authorized by the board. The executive director shall serve at the
18 pleasure of the board and be solely responsible to it. The Game
19 and Parks Commission shall provide administrative support,
20 including, but not limited to, payroll and accounting functions, to
21 the board. For administrative purposes only, the board shall be
22 part of the Game and Parks Commission.

23 Sec. 50. Members of the board shall comply with the
24 conflict of interest provisions of the Nebraska Political
25 Accountability and Disclosure Act. Any member of the board who is
26 also a director of a state agency shall abstain from voting on
27 applications which would provide funding primarily to his or her
28 agency.

1 Sec. 51. Section 81-15,175, Revised Statutes Supplement,
2 2000, is amended to read:

3 81-15,175. (1) The board may make an annual allocation
4 from the Nebraska Environmental Trust Fund to the Nebraska
5 Environmental Endowment Fund as provided in section 81-15,174.01.
6 The board shall make annual allocations from the Nebraska
7 Environmental Trust Fund and may make annual allocations from the
8 Nebraska Environmental Endowment Fund for projects which conform to
9 the environmental priorities of the board established pursuant to
10 section 81-15,176 and to the extent the board determines those
11 projects to have merit. The board shall establish an annual
12 calendar for receiving and evaluating proposals and awarding
13 grants. To evaluate the economic, financial, and technical
14 feasibility of proposals, the board may establish subcommittees,
15 request or contract for assistance, or establish advisory groups.
16 Private citizens serving on advisory groups shall be reimbursed for
17 their actual and necessary expenses pursuant to sections 81-1174 to
18 81-1177.

19 (2) The board shall establish a rating system for ranking
20 proposals which meet the board's environmental priorities and other
21 criteria. The rating system shall include, but not be limited to,
22 the following considerations:

23 (a) Conformance with priorities established pursuant to
24 section 81-15,176;

25 (b) Amount of funds committed from other funding sources;

26 (c) Encouragement of public-private partnerships;

27 (d) Geographic mix of projects over time;

28 (e) Cost effectiveness and economic impact;

- 1 (f) Direct environmental impact; and
2 (g) Environmental benefit to the general public and the
3 long-term nature of such public benefit.

4 (3) ~~The results of the annual rating of proposals shall~~
5 ~~guide the board's allocation of funds, except that the board may~~
6 ~~assign a higher rating to any proposal with an affirmative vote of~~
7 ~~eleven members. The motion for such an action shall specify the~~
8 ~~reasons for such action. The board may commit funds to multiyear~~
9 ~~projects, subject to available funds and appropriations. No~~
10 ~~commitment shall exceed three years without formal action by the~~
11 ~~board to renew the grant or contract. Multiyear commitments may be~~
12 ~~exempt from the rating process, except for the initial application~~
13 ~~and requests to renew the commitment.~~

14 (4) The board may establish a subcommittee to rate grant
15 applications. If the board uses a subcommittee, the subcommittee
16 shall (a) use the rating system established by the board under
17 subsection (2) of this section, (b) assign a numeric value to each
18 rating criterion, combine these values into a total score for each
19 application, and rank the applications by the total scores, (c)
20 recommend an amount of funding for each application, which amount
21 may be more or less than the requested amount, and (d) submit the
22 ranked list and recommended funding to the board for its approval
23 or disapproval. A motion to deviate from the subcommittee's
24 recommendations must specify the reason for doing so and be adopted
25 with an affirmative vote of not fewer than eight members of the
26 board.

27 (4) The board may commit funds to multiyear projects,
28 subject to available funds and appropriations. No commitment shall

1 exceed three years without formal action by the board to renew the
2 grant or contract. Multiyear commitments may be exempt from the
3 rating process except for the initial application and requests to
4 renew the commitment.

5 (5) The board shall adopt and promulgate rules and
6 regulations and publish guidelines governing allocations from the
7 fund. The board shall conduct annual reviews of existing projects
8 for compliance with project goals and grant requirements.

9 (6) Every five years the board may evaluate the long-term
10 effects of the projects it funds. The evaluation may assess a
11 sample of such projects. The board may hire an independent
12 consultant to conduct the evaluation and may report the evaluation
13 findings to the Legislature and the Governor.

14 Sec. 52. Section 81-15,176, Revised Statutes Supplement,
15 2000, is amended to read:

16 81-15,176. (1) Subject to subsection (3) of this
17 section, the board shall establish environmental priorities for the
18 trust. The board, after allowing opportunity for public comment,
19 shall designate as priorities those environmental goals which most
20 affect the natural physical and biological environment in Nebraska,
21 including the air, land, ground water and surface water, flora and
22 fauna, prairies and forests, wildlife and wildlife habitat, and
23 areas of aesthetic or scenic values. In designating environmental
24 priorities, the board shall attempt to focus on the areas which
25 promise the greatest opportunities for effective action to achieve
26 and preserve the future environmental quality in the state. The
27 board shall establish priorities for five-year periods beginning
28 July 1, 1995, except that the board may make annual modifications

1 to refine and clarify its priorities. The board shall provide for
2 public involvement in developing the priorities for such five-year
3 periods, including public meetings in each of the three
4 congressional districts.

5 (2) The board shall establish criteria for determining
6 the eligibility of projects for grant assistance, which criteria
7 shall include the following:

8 (a) The grants shall not provide direct assistance to
9 regulatory programs or to implement actions mandated by regulations
10 except remediation;

11 (b) No more than sixty percent of grant allocations in
12 any year shall assist remediation of soils or ground water, and no
13 grants for this purpose shall occur unless all other available
14 sources of funding are, in the opinion of the board, being
15 substantially utilized;

16 (c) The grants shall not pay for projects which provide
17 primarily private benefits or ~~to~~ relieve private liability for
18 environmental damage;

19 (d) The grants shall not pay for projects which have
20 direct beneficiaries who could afford the costs of the benefits
21 without experiencing serious financial hardship;

22 (e) The grants should assist those projects which offer
23 the greatest environmental benefits relative to cost;

24 (f) The grants should assist those projects which provide
25 clear and direct environmental benefits;

26 (g) The grants should assist those projects which will
27 make a real contribution to achieving the board's environmental
28 priorities;

1 (h) The grants should assist those projects which offer
2 the greatest public benefits; and

3 (i) The grants shall not pay for land or easements
4 acquired without the full and express consent of the landowner.

5 (3) Until the first five-year priorities become effective
6 on July 1, 1995, the board shall observe the following priorities
7 for allocating grants:

8 (a) Critical habitat areas, including wetlands
9 acquisition, preservation, and restoration and acquisition and
10 easements of areas critical to rare or endangered species;

11 (b) Surface water quality, including actions to preserve
12 lakes and streams from degradation;

13 (c) Ground water quality, including fostering best
14 management practices as defined in section 46-656.07, actions to
15 preserve ground water from degradation, and remediation of soils or
16 ground water; and

17 (d) Development of recycling markets and reduction of
18 solid waste volume and toxicity.

19 (4) The board may refine and clarify these initial
20 priorities.

21 Sec. 53. Original sections 2-1576, 37-101, 37-102,
22 37-453, 37-491, 37-4,105, 37-4,106, 37-528, 37-608, and 37-806,
23 Reissue Revised Statutes of Nebraska, sections 2-1575, 2-1579,
24 37-201, 37-202, 37-406, 37-440, 37-525, 37-724, 54-2302, 54-2305,
25 54-2322, 72-2005, 72-2006, 72-2008, 72-2010, 72-2011, 81-15,167,
26 81-15,170, 81-15,175, and 81-15,176, Revised Statutes Supplement,
27 2000, and sections 37-407, 37-426, 37-455, 49-1401, 49-1493, and
28 66-1519, Revised Statutes Supplement, 2001, are repealed.